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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,090	02/11/2004	Noriyoshi Kurotsu	03500.017893.	1592

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EXAMINER

RODRIGUEZ, LENNIN R

ART UNIT

PAPER NUMBER

2625

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,090

Applicant(s)

KUROTSU ET AL.

Examiner

LENNIN R. RODRIGUEZ

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection. Arguments made on pages 8-9 are based on the combination of the references and the new ground of rejection does not have the same combination of references, therefore arguments are moot.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/8/2008 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A "computer-executable print control program" is being recited; however a "computer-executable print control program" as presented in

the claims appears to be directed to software per se. This subject matter is not limited to that which falls within a statutory category of invention because it is limited to a process, machine, manufacture, or a composition of matter. Software is a function descriptive material and a function descriptive material is non-statutory subject matter.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatsuma et al. (US 6,115,132) in view of Bain et al. (US 5,287,434).

(1) regarding claims 1, 7 and 13:

Nakatsuma '132 discloses an information processing apparatus (102 in Fig. 1) for exerting print control (column 5, lines 28-31), comprising:

a spooling unit (801 in Fig. 9), adapted for again spooling print data created and spooled via a print data creation module (column 12, lines 1-28, where data already spooled is stored in a virtual spooler);

an outputting unit (712 and 709 in Fig. 9), adapted for outputting the spooled print data to a destination printer (column 12, lines 35-41, where the spooled data is outputted to the printer); and

a changing unit (Fig. 28 and 30, where it shows user interfaces to change the destination printer), adapted for changing the destination printer to an alternation destination printer (column 9, lines 4-14, where in the case of hitting print in the creation

module the print data will begin to be spooled and then a window will show on the screen allowing a user to change from a default printer (standard) to any printer (alternate) to send the print job to, therefore changing the destination printer);

(Official Notice)

Nakatsuma '132 discloses all the subject matter as described above except specifically teaching changing the destination printer to an alternation destination printer before said spooling unit has completed the spooling of the print data.

However, it is well know in the art that a computer is multitasking and it can have multiple programs running at the same time, as disclose in Fig. 8 one of the programs is a spooler and in Fig. 28 and 30 a user interface for selecting destination printers. Although it is not specifically teaching changing the destination printer to an alternation destination printer before said spooling unit has completed the spooling of the print data, it does not say where the changing of the printer will take effect, thus it would be obvious to a person of ordinary skill in the art to change the destination printer in the middle of the spooling process, since the computer, being multitasking, will allow for this.

Nakatsuma '132 discloses all the subject matter as described above except a control unit, adapted for concurrently performing the spooling of the print data such that the spooling is continued from the print data already spooled without restarting from the beginning, and performing by said spooling unit and output of the spooled print data to the alternation destination printer.

However, Bain '434 teaches a control unit (microprocessor 19 in Fig. 1), adapted for concurrently performing the spooling of the print data such that the spooling is continued from the print data already spooled without restarting from the beginning (column 17, lines 37-46, where the spooling picks up from where the print job was suspended the last time), and performing output of the spooled print data to the alternation destination printer (column 17, lines 37-46, where the spooled print data is sent again to the printer (and from teachings of Nakatsuma '132 the printer well can be an alternate printer)).

Having a system of Nakatsuma '132 reference and then given the well-established teaching of Bain '434 reference, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the information processing apparatus of Nakatsuma '132 to include a control unit, adapted for concurrently performing the spooling of the print data such that the spooling is continued from the print data already spooled without restarting from the beginning, and performing by said spooling unit and output of the spooled print data to the alternation destination printer as taught by Bain '434 because it will maximize the efficiency of the spooling operation by preventing retransmission of data after being initially spooled (column 2, lines 61-67), thus increasing the efficiency of the system.

(2) regarding claims 2, 8 and 14:

Nakatsuma '132 further discloses an ID creation unit, adapted for creating a first ID issued correspondingly to the print data created via the print data creation module (column 13, lines 20-43) and a second ID to the print data spooled by said spooling unit

apart from said first ID (column 16, lines 50-58 and column 24, lines 36-39, where an ID different from the first one its being created); and

a management unit (710 in Fig. 7), adapted for performing job management corresponding to the second ID created by said ID creation unit columns 16-17, lines 58-67 and 1-7 respectively).

(3) regarding claims 3, 9, and 15:

Nakatsuma '132 further discloses wherein the first ID is an ID issued via an OS (column 6, lines 59-67 and column 13, lines 20-23, where the job ID it's being obtained from the virtual print server service which the OS is controlling).

(4) regarding claims 4, 10, and 16:

Nakatsuma '132 further discloses wherein, on alternation or resending of said print data, said control unit continues the spooling of the data already spooled before the alternation or resending (column 2, lines 20-23, and column 29, lines 41-46).

(5) regarding claims 5, 11 and 17:

Nakatsuma '132 further discloses a notification unit (712 in Fig. 7), adapted for notifying said second ID to an alternation destination printer specified of a plurality of printers via an alternate setting screen (Fig. 32, column 35, claim 17, plurality of printers and column 13, lines 52-62);

an identification unit, adapted for identifying the print data to be alternated based on said second ID notified by said notification unit (column 16, lines 55-63, where the job ID is identified); and

a reading unit (712 in Fig. 7), adapted for reading the print data identified by said identification unit (column 13, lines 56-58),

wherein said control unit concurrently performs the spooling of the print data by said spooling unit and the reading by said reading unit (column 14, lines 1-5, where the data its being read and spooled by the control unit (202 in Fig. 2)).

(6) regarding claims 6, 12 and 18:

Nakatsuma '132 further discloses wherein each of said plurality of printers has port information set up correspondingly (Fig. 34).

Double Patenting

7. Applicant is advised that should claims 1-6 be found allowable, claims 7-12 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENNIN R. RODRIGUEZ whose telephone number is (571)270-1678. The examiner can normally be reached on Monday - Thursday 7:30am - 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, King Poon can be reached on (571) 272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/King Y. Poon/
Supervisory Patent Examiner, Art Unit 2625

/Lennin R Rodriguez/
Examiner, Art Unit 2625